

HOUSE No. 2685

By Ms. Kaprielian of Watertown, petition of Rachel Kaprielian and others relative to the Tobacco Settlement Fund. Public Health.

The Commonwealth of Massachusetts

PETITION OF:

Rachel Kaprielian	Mark J. Carron
Kathi-Anne Reinstein	Cory Atkins
Elizabeth A. Malia	Robert M. Koczera
David Paul Linsky	Patricia A. Haddad
Ellen Story	Barbara A. L'Italien
Peter V. Kocot	Michael E. Festa
Matthew C. Patrick	Peter J. Koutoujian
John W. Scibak	Michael F. Rush
Patricia D. Jehlen	Carl M. Sciortino, Jr.
Douglas W. Petersen	Gale D. Candaras
Byron Rushing	Frank I. Smizik
Louis L. Kafka	Deborah D. Blumer
Patricia A. Walrath	Thomas M. McGee
Ruth B. Balser	Theodore C. Speliotis
Mary E. Grant	Richard T. Moore
Bradford Hill	Lewis G. Evangelidis
J. James Marzilli, Jr.	Antonio F.D. Cabral
Paul J. Donato	Steven A. Tolman
Christopher G. Fallon	Thomas P. Kennedy
James E. Vallee	Kevin G. Honan
Susan W. Pope	Harriett L. Stanley
James B. Leary	Jennifer M. Callahan
Timothy J. Toomey, Jr.	Anne M. Paulsen
John P. Fresolo	Kay Khan
Alice K. Wolf	Thomas M. Stanley
Robert K. Coughlin	Anthony Petruccelli
Benjamin Swan	Anne M. Gobi
Gloria L. Fox	Edward G. Connolly
Kathleen M. Teahan	Martin J. Walsh

Mark V. Falzone
Anthony J. Verga

Alice H. Peisch
James B. Eldridge

In the Year Two Thousand and Five.

AN ACT TO RESTORE THE TRUST BY RE-ESTABLISHING THE VOTER MANDATED HEALTH PROTECTION FUND AND THE TOBACCO SETTLEMENT FUND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 29 of the General Laws, as appearing in
2 the 2000 Official Edition, is hereby amended by adding the
3 following section:—

4 “Section 2GG. There shall be established and set up on the
5 books of the commonwealth a separate fund to be known as the
6 Health Protection Fund. There shall be credited to said fund all
7 amounts collected pursuant to section seven of chapter sixty-four
8 C, together with any penalties, forfeitures, interest, costs of suits
9 and fines collected in connection therewith, less all amounts
10 refunded or abated in connection therewith, all as determined by
11 the commissioner of revenue according to his best information
12 and belief; any appropriation, grant, gift, or other contribution
13 explicitly made to said fund; and any income derived from the
14 investment of amounts credited to said fund.

15 Amounts credited to said fund shall be expended, subject to
16 appropriation, to supplement existing levels of funding for the
17 following purposes:

18 (a) for comprehensive school health education programs, to be
19 administered by the department of education; provided, however,
20 that such programs shall incorporate information relating to the
21 hazards of tobacco use;

22 (b) for workplace-based and community smoking prevention
23 and smoking cessation programs, for tobacco-related public
24 service advertising and for drug education programs, to be admin-
25 istered by the department of public health;

26 (c) for the support of community health centers and their pro-
27 grams of prenatal and maternal care, under the supervision of said

28 department of public health; provided, however, that such prenatal
29 and maternal care programs incorporate smoking cessation assis-
30 tance and guidance regarding the harmful effects of smoking on
31 fetal development; and

32 (d) for ongoing activities, by said department of public health,
33 relating to the monitoring of morbidity and mortality from cancer
34 and other tobacco-related illnesses in the commonwealth.

35 In conjunction with the preparation of the commonwealth's
36 comprehensive annual financial report, the comptroller shall pre-
37 pare and issue an annual report detailing the revenues and expen-
38 ditures of said fund.

1 SECTION 2. Said chapter 29, as so appearing, is hereby further
2 amended by adding the following section:

3 Section 2XX. (a) There shall be established and set up on the
4 books of the commonwealth a separate fund to be known as the
5 Tobacco Settlement Fund. There shall be credited to said fund:
6 (1) for fiscal years 2000 to 2001, inclusive, all amounts desig-
7 nated in the schedule of payments contained in paragraph (c) of
8 section 3 of chapter 29D of the General Laws; (2) for fiscal years
9 2002, 2003 and 2004, 50 per cent of all payments received by the
10 commonwealth each year pursuant to the master settlement agree-
11 ment in the action known as Commonwealth of Massachusetts v.
12 Phillip Morris, Inc. et. Al., Middlesex Superior Court, No. 95-
13 7378, 50 per cent of the earnings generated each year from the
14 Health Care Security Trust as certified by the comptroller pur-
15 suant to paragraph (f) of section 3 of said chapter 29D of the
16 General Laws, and 50 per cent of any monies generated by any
17 other claim or action undertaken by the attorney general against a
18 manufacturer of cigarettes to recover the amount of medical assis-
19 tance provided pursuant to chapter 118E or any other claim or
20 action taken by the attorney general against a manufacturer of cig-
21 arettes; (3) for fiscal years 2005 and thereafter 30 per cent of all
22 payments received by the commonwealth each year pursuant to
23 the master settlement agreement the action known as Common-
24 wealth of Massachusetts v. Phillip Morris, Inc. et. Al., Middlesex
25 Superior Court, No. 95-7378, 30 per cent of the earnings gener-
26 ated each year from the Health Care Security Trust as certified by
27 the comptroller pursuant to paragraph (f) of section 3 of said

28 chapter 29D, and 30 per cent of any monies generated by any
29 other claim or action undertaken by the attorney general against a
30 manufacturer of cigarettes to recover the amount of medical assis-
31 tance provided pursuant to chapter 118E or any other claim or
32 action taken by the attorney general against a manufacturer of cig-
33 arettes; (4) any federal reimbursement received pursuant to Title
34 XIX and Title XXI of the Social Security Act, or a successor
35 statute, as a result of the operation of programs funded by the
36 expenditures from said fund; (5) any fees, premiums, co-pay-
37 ments, assessments or other revenues collected as a result of the
38 operation of programs funded by expenditures from said fund; (6)
39 any appropriation, grant, gift, or other contribution explicitly
40 made to said fund; and (7) any income derived from the invest-
41 ment of amounts credited to said fund.

42 (b) Amounts credited to said fund shall be expended, subject to
43 appropriation, to supplement existing levels of funding for the
44 purpose of funding health related services and programs
45 including, but not limited to, services and programs intended to
46 control or reduce the use of tobacco in the commonwealth.
47 Amounts credited to said fund shall not be used to supplant or
48 replace other health related or nonhealth related expenditures or
49 obligations of the commonwealth.

50 (c) In conjunction with the preparation of the commonwealth's
51 comprehensive annual financial report, the comptroller shall pre-
52 pare and issue an annual report detailing the revenues and expen-
53 ditures of said fund.

1 SECTION 3. Section 3 of Chapter 29D of the General Laws, as
2 so appearing, is hereby amended by striking out the words
3 "General Fund" and inserting in place thereof, in each instance,
4 the following words:— "Tobacco Settlement Fund"

1 SECTION 4. Said section 3 of chapter 29D of the General
2 Laws, as so appearing, is hereby further amended in subsection
3 (b) by adding at the end thereof the following:— " , which shall
4 include, but not be limited to smoking prevention and tobacco
5 control education programs, youth smoking prevention and
6 tobacco control programs, related enforcement activities of local
7 boards of health; tobacco tax enforcement, coordinated tobacco

8 treatment resources, the Tobacco Free Helpline and QuitWorks;
9 and regional tobacco reduction partnerships, and provided further,
10 for fiscal year 2006 and thereafter, such funding for said tobacco
11 control purposes shall be not less than the amount recommended
12 by the Centers for Disease Control and Prevention for then current
13 tobacco control and prevention state funding.”

1 SECTION 5. Said section 3 of said chapter 29D, as so
2 appearing, is hereby further amended by striking out paragraph
3 (f) and inserting in place thereof the following paragraph:—

4 “(f) Not later than October 31 of each year, the comptroller
5 shall certify to the trustees, the fiscal affairs division, the house
6 and senate committees on ways and means, the joint committee on
7 health care and the advisory committee on health care and tobacco
8 control the balance in the Health Care Security Trust Fund and the
9 total return generated by the principal of said trust fund during the
10 prior 12 month period ending on June 30. For fiscal years 2005
11 and thereafter, the comptroller shall transfer 30 per cent of said
12 return, as so certified by the comptroller in the previous October,
13 from the Health Care Security Trust to the Tobacco Settlement
14 Fund, which shall be available for expenditure.”

1 SECTION 6. Section 4 of said chapter 29D, as so appearing, is
2 hereby amended by striking out the words “General Fund” and
3 inserting in place thereof the following words:— “Tobacco Settle-
4 ment Fund”

1 SECTION 7. Section 5 of said chapter 29D, as so appearing, is
2 hereby amended by striking out subsection (h) and inserting in
3 place thereof the following subsection:—

4 (h) Beginning on the first Wednesday of October, 2003, and
5 every 3 years thereafter, said commission shall conduct a review
6 to evaluate: (1) the present and future health needs of the citizens
7 of the commonwealth; (2) the financial stability of the trust in
8 light of the return on investment and any adjustment factors or
9 other factors affecting the future stream of payments from the
10 tobacco settlement, based upon recommendations by the board of
11 trustees of said trust; (3) whether, and to what extent, the present
12 health needs of the commonwealth, when balanced against future

13 needs, warrant recommending a change in the allocation of
14 monies between the trust and the Tobacco Settlement Fund; and
15 (4) the merits of all existing programs funded by the Tobacco Set-
16 tlement Fund. After such review, the commission shall prepare a
17 report with its recommendations and shall file said report with the
18 office of the governor, the fiscal affairs division, the house and
19 senate committees on ways and means, the joint committee on
20 health care and with the clerk of the house of representatives and
21 the clerk of the senate.